

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In the Matter of Temporary	)	
Permit 20815 (Application 30494)	)	
	)	ORDER: WR 95-19
<b>Pelger Mutual Water Company,</b>	)	SOURCE: Sacramento River
	)	
Permittee.	)	COUNTY: Sutter
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FINDINGS AND ORDER VALIDATING THE  
ISSUANCE OF TEMPORARY PERMIT

BY THE BOARD:

**1.0 INTRODUCTION**

Pelger Mutual Water Company (Pelger) having filed Application 30494 for a temporary permit to divert and use water pursuant to Chapter 6.5 (commencing with Section 1425), Part 2, Division 2 of the Water Code; the State Water Resources Control Board (SWRCB) having consulted with the California Department of Fish and Game (DFG); the California Department of Water Resources (DWR); the California Regional Water Quality Control Board, Central Valley Region; the United States Bureau of Reclamation (USBR); and the California Sportfishing Protection Alliance (Cal SPA); the Chief of the Division of Water Rights, Edward C. Anton, having reviewed available information, approved and issued a temporary permit on November 22, 1995, to divert and use water subject to review and validation by the SWRCB as provided by Water Code Section 1425(d); the SWRCB finds as follows:

## **2.0 ISSUANCE OF TEMPORARY PERMITS**

Water Code Section 1425(d) provides for delegation of the authority to issue temporary permits. The SWRCB has delegated this authority to the Chief, Division of Water Rights, pursuant to Resolution No. 95-36 when no objections are outstanding. When delegation of authority is exercised, Water Code Section 1425(d) further requires that the SWRCB review and validate any temporary permit so issued within 30 days of issuance. On November 22, 1995, the Chief, Division of Water Rights, Edward C. Anton, approved and issued Temporary Permit 20815. The matter is before the SWRCB for review and validation.

## **3.0 SUBSTANCE OF THE APPLICATION AND PROJECT**

Temporary Permit 20815 is for the direct diversion of 20 cubic feet per second, up to a maximum of 1400 acre-feet, by pumping water from the Sacramento River in the NE¼ of SW¼ of Section 23, T13N, R1E, MDB&M. Water is diverted from the same point of diversion used during the summer months for irrigation purposes under licensed Applications 1765A and 12470, and USBR Contract Number 14-06-200-2073A. The pump intakes are fitted with fish screens approved by DFG and recently installed as part of the USBR's fish screen demonstration program.

### **3.1**

The water is conveyed from the diversion facilities via an existing two-mile-long concrete canal to flood 780 acres of existing rice fields within 2,900 gross acres for industrial, wildlife enhancement, and recreational purposes. The industrial use is to test an alternate method of rice straw disposal by flooding the fields in order to promote decomposition of rice stubble while at the same time providing beneficial habitat for waterfowl and wildlife. Recreational use is for duck

hunting on the flooded acreage. All water diverted, except that lost by seepage and evaporation, will be returned to the Sacramento River via the ditches of Reclamation District 1500.

#### **4.0 URGENT NEED OF PERMITTEE TO DIVERT AND USE WATER**

Common practice for disposing of rice straw is to burn the material, resulting in degraded air quality within the Sacramento Valley Air Basin. Pursuant to Section 41865 of the Health and Safety Code, the number of acres that may be burned in the Basin each year is being phased down as of September 1992. An alternative being tested is to flood the rice fields to promote the decomposition of the rice stubble. Three farmers within Pelger's service area desire to flood 780 acres of rice fields this winter for that purpose. Wildlife enhancement and recreation use would be side benefits of the project.

#### **4.1**

Pelger's project is for diversion of water, outside the normal agricultural growing season, for which it has no surface water rights or contract water. Pelger has filed Application 30410, now pending before the SWRCB, seeking a permanent appropriation from the same point of diversion on the Sacramento River from September 15 of each year to March 31 of the succeeding year and for the same purposes of use as the temporary permit plus for irrigation of winter crops.

Considering the above circumstances, the SWRCB finds that the permittee has an urgent need for the temporary permit to divert and use water.

**5.0 NOTICE OF THE TEMPORARY PERMIT**

Public notice of the application for a temporary permit was issued on November 22, 1995. The notice was published in a newspaper having a general circulation in the County of Sutter. Copies of the notice were also mailed, in accordance with Water Code Section 1428, to all known interested parties and diverters downstream from the point of diversion. No objections were received to diversion of water as specified in the public notice and as authorized in the temporary permit.

**6.0 EFFECT OF THE DIVERSIONS ON OTHER LAWFUL USERS OF WATER**

The USBR and DWR expressed concern over possible impacts to Delta outflow requirements. To alleviate these concerns, standard Term 91 was included in the temporary permit.

**6.1**

Based upon the facts described above, and with the inclusion of Term 91 in the temporary permit, the SWRCB finds that water may be diverted and used under Temporary Permit 20815 without injury to any lawful user of water.

**7.0 EFFECTS OF THE PROPOSED DIVERSIONS ON FISH, WILDLIFE, AND OTHER INSTREAM USES**

The DFG and Cal SPA verbally indicated that the diversion pumps should contain approved fish screens. No other comments were received stating that the diversion may impair instream beneficial uses. The temporary permit contains a term requiring that the diversion facilities contain a fish screen acceptable to DFG. Accordingly, the SWRCB finds that water may be diverted and used without unreasonable effect upon fish, wildlife, or other instream beneficial uses.

**8.0 FINDINGS CONCERNING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

- a. The project involves basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource.
- b. The project consists of actions taken by regulatory agencies as authorized by state law to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.
- c. The project consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included.
- d. This project will not cause significant adverse impacts on any sensitive environment and will not result in significant cumulative impacts.

Therefore, under California Code of Regulations, Title 14, Sections 15306, 15307 and 15308, the SWRCB finds that this project is exempt from CEQA. A Categorical Exemption (Class 6, 7 and 8) was issued on November 22, 1995.

**9.0 NO EFFECT ON SWRCB'S FUTURE ACTION**

Action by the SWRCB on Application 30410 of Pelger is still pending. No finding herein shall be construed as predetermining any issues relevant to that application.

10.0 PUBLIC INTEREST

Diversion and use of water by Pelger under Temporary Permit 20815 is in the public interest and is in accordance with the constitutional policy that the water resources of the State be put to beneficial use to the fullest extent of which they are capable.

ORDER

NOW, THEREFORE, IT IS ORDERED that the issuance of Temporary Permit 20815 is validated subject to the conditions specified in the temporary permit.

CERTIFICATION

The undersigned, Administrative Assistant to the State Water Resources Control Board, does hereby certify that the foregoing is a full, true and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on December 13, 1995.

AYE: John Caffrey  
Mary Jane Forster  
James M. Stubchaer  
John W. Brown

NO: None

ABSENT: Marc Del Piero

ABSTAIN: None

  
Maureen Marché  
Administrative Assistant to the Board